THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22436 of 1995

Date: 18-3-2006

Between:

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1. Shaik Rahamatulla and 55 others .. Petitioners

and

1. State of Andhra Pradesh rep

by its Principal Secretary,

Department of Home,

Secretariat, Hyderabad

And two others .. Respondents

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WRIT PETITION No.22436 of 1995

ORAL ORDER:

Petitioners, 56 in number, question the proceedings of the Superintendent of Police, Ananthapur dated 14.9.1995 pursuant to Circular Memo dated 18.5.1995, removing them from the rolls of Home Guards Organization with effect from 30.9.1995, as arbitrary and illegal. They also seek a declaration that Section 5 of the A.P. Home Guards Act, 1948 is ultra vires Articles 14 and 21 of Constitution of India and to declare Rule 10 of Madras Home Guard Rules, 1949, which disentitles petitioners

from payment of salary, as arbitrary, illegal, unjust, ultra vires Articles 14, 21 and 43 of the Constitution of India. By the impugned proceedings dated 14.9.1995, the Superintendent of Police, Ananthapur removed the petitioners herein from the rolls of the Home Guards Organization with effect from 30.9.1995 on the ground that they had completed three years of service.

The question of raising a statutory voluntary organization in the State, with a view to building up a corps of patriotic men and women, whose services could be utilized for various duties in times of emergency on the lines of the organizations maintained under various designations in the States of Maharashtra, Uttar Pradesh and WestBengal, was engaging the attention of State Government. Consequent upon the national emergency declared, as a result of the Chinese aggression, the State Government reviewed the question and came to the conclusion that such an uniformed, well-knit and disciplined organization, if maintained, would stand upto hardships in times of need. It was therefore decided to recruit Home Guards from amongst persons aged between 20 to 45 years of age. The Home Guards were required to be imparted a part-time training course of 2 hours each day, for a period of three months in physical exercises, arms drill, lathi drill, etc., and they were not entitled to any remuneration.

G.O.Ms.No.423 dated 2.3.1963 was issued sanctioning companies of Home Guards in different district of Andhra Pradesh. It is stated therein that Home Guards, being a voluntary organization of men to carry on their normal vocations, but who undertake, after completion of the prescribed training to place themselves voluntarily at the disposal of the authorities to take up such tasks and functions as may be allotted to them in times of necessity, the time spent by them in their annual camps and on duty in emergencies, should be treated as ‘duty’ in their parent offices/departments. The government hoped that private employers in the State, whose employees may also join as Home Guards, would extent similar concessions to their employees in national interest. Circular dated 18.6.1986 was issued permitting the home guard volunteers to serve beyond three years provided that their services were satisfactory. Vide G.O.Ms.No.779 dated 20.12.1990, the duty allowance of Home Guards was revised upwards.

As noticed from the facts stated above, the Home Guards organization is a purely voluntary organization for people with patriotic zeal to serve the country

in times of emergency. Since the service rendered by them was purely voluntary, it was for the respondents to decide as to whether their services should be utilized or not. If the respondents, in their wisdom, choose not to utilize their services after completion of three years, none of the rights of the petitioners herein can be said to have been violated, much less, their rights under Articles 14, 16 and 21 of the Constitution of India. Since the services rendered by the petitioners are purely voluntary, they are not under the employment of the State and the question of their being paid salary or their being put on notice when their services are disengaged, does not arise. Removing them from the rolls of Home Guards Organization does not preclude the petitioners, if they so choose, from their rendering voluntary service elsewhere. If the respondents, in their wisdom choose to engage younger and physically fit men and women, to be on the rolls of the Home Guards Organization, and not to continue Home Guards for a period beyond three years, it cannot be said that any of the fundamental rights of the petitioners herein has been violated.

The writ petition, as filed, is misconceived and is accordingly dismissed. However, in the circumstances without costs.

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18-3-2006

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